

[Cite as *State ex rel. Quiles v. Court of Common Pleas*, 2007-Ohio-88.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 88997

**STATE OF OHIO EX REL.,
FABIAN QUILES**

RELATOR

VS.

COURT OF COMMON PLEAS

RESPONDENT

**JUDGMENT:
WRIT DENIED**

WRIT OF MANDAMUS
MOTION NO. 391150
ORDER NO. 392040

RELEASE DATE: January 9, 2007

ATTORNEY FOR RELATOR:

Fabian Quiles
Inmate No. 461-954
Marion Correctional Inst.
P.O. Box 57
Marion, Ohio 43301

ATTORNEY FOR RESPONDENT:

William D. Mason
Cuyahoga County Prosecutor
By: Kristen L. Sobieski
Assistant County Prosecutor
8th Floor Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

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JUDGE MARY EILEEN KILBANE:

{¶ 1} On November 13, 2006, the relator, Fabian Quiles, commenced this mandamus action against the respondent, Judge Kenneth Callahan, to compel the judge to rule on a motion for jail time credit in the underlying case, *State v. Quiles*, Cuyahoga County Common Pleas Court Case No. CR-445034. He maintains that he filed the motion over nine months ago and that the judge has yet to rule on it.

{¶ 2} On November 30, 2006, the respondent moved for summary judgment on the grounds of mootness. Attached to the dispositive motion was a copy of a November 16, 2006 journal entry in the underlying case, granting Quiles 123 days of credit. This journal entry establishes that the respondent has fulfilled his duty, to rule on the outstanding motion, and that Quiles has received his requested relief. *State ex rel. Corder v. Wilson* (1991), 68 Ohio App.3d 567, 589 N.E.2d 113. Quiles never filed a response.

{¶ 3} Quiles also failed to comply with R.C. 2969.25, which requires an affidavit that describes each civil action or appeal filed by the relator within the previous five years in any state or federal court. The relator's failure to comply with R.C. 2969.25 warrants dismissal of the complaint for a writ of mandamus. *State ex rel. Zanders v. Ohio Parole Board*, 82 Ohio St.3d 421, 1998-Ohio-218, 696 N.E.2d 594 and *State ex rel. Alford v. Winters*, 80 Ohio St.3d 285, 1997-Ohio-117, 685 N.E.2d 1242.

{¶ 4} Accordingly, this court grants the respondent's motion for summary judgment and denies the application for a writ of mandamus. Costs assessed against relator. The clerk is directed to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

MARY EILEEN KILBANE, JUDGE

ANN DYKE, P.J., and
JAMES J. SWEENEY, J., CONCUR